

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MARCUS DAVIS,

Plaintiff,

Case No. 25-cv-678-pp

v.

ROUNDYS SUPERMARKETS, INC.,

Defendant.

**ORDER REMINDING PLAINTIFF OF OPTION TO FILE AMENDED
COMPLAINT IN LIEU OF RESPONDING TO DEFENDANT'S MOTION TO
DISMISS (DKT. NO. 9)**

On May 14, 2025, the defendant filed a motion to dismiss the complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). Dkt. No. 9. The defendant argues that the plaintiff's Title VII claim should be dismissed because the plaintiff did not exhaust his administrative remedies, dkt. no. 10 at 3-4, that the intentional tort claim should be dismissed because the Wisconsin Worker's Compensation Act provides the exclusive remedy for a work-related injury, id. at 5, and the plaintiff does not raise a viable breach of contract claim, id. at 5-7.

Under Civil Local Rule 7(b), if the plaintiff wishes to oppose the motion he must do so within twenty-one days—that is by June 4, 2025. The plaintiff is free to timely file a response to the motion to dismiss, but the court reminds the plaintiff that he has another option—he may file an amended complaint to try to cure the alleged deficiencies. See Runnion ex rel. Runnion v. Girl Scouts

of Greater Chi. and Nw. Ind., 786 F3d 510, 522 (7th Cir. 2015) (explaining that a responsive amendment may avoid the need to decide the motion or reduce the number of issues decided). Fed. R. Civ. P. 15(a)(1) allows the plaintiff to file the amended complaint as a matter of course within twenty-one days after service of the responsive pleading.

The court **ORDERS** that by June 4, 2025 the plaintiff must file either an amended complaint or a response to the motion to dismiss.

Dated in Milwaukee, Wisconsin this 15th day of May, 2025.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge